



THE PHOENIX LAW GROUP OF *Feldman Brown Wala Hall & Agena, PLC*

ACHIEVING | BALANCE

[HOME](#)

[CONTACT](#)

[ATTORNEYS](#)

Sept 2009

PHARMACY BENEFITS MANAGEMENT UPDATE

Quick Links

[About Us](#)
[Related Topics](#)

To join our mailing list, please contact:
shamagel@phoenixlawgroup.com

Samantha Brown, Esq.



Laurel Wala, Esq.



Cami Agena, Esq.



ABOUT US

State Laws with Negotiated Pricing Requirements

There are a handful of states that have laws that address negotiated pricing between the health insurance plan and the health care provider. This is similar to some of the requirements of the pass through pricing concept adopted by CMS under Part D. Generally, negotiated or pass-through pricing is the price that the insurer/managed care organization/plan sponsor and the provider (such as a network pharmacy) have negotiated as the amount the provider will receive for a particular service or drug. The state law requirements relating to negotiated pricing range from:

- general statements that the special pricing arrangement accrue to the benefit of the plan participant and state;
- disclosure requirements on how the negotiated pricing will impact participant cost-sharing; and
- requirements that member cost-sharing is calculated based on the negotiated price (again, very similar to the CMS requirements for the Part D program).

Average Wholesale Price Reduction Still Set for 9/26/09

On September 3, 2009, the U.S. Court of Appeals for the First Circuit entered its judgment affirming the district court's judgment and denying the motions for a stay of the final judgment. This means that the roll-back of the AWP's for NDCs whose AWP's are based on a markup to WAC in excess of 1.20 is still scheduled to be implemented by First DataBank and Medi-Span on September 26, 2009.

HHS Issues Interim Final Rule for Breach Notification

HHS has issued the interim final rule for Breach Notification under HIPAA. This rule is effective September 23, 2009, and requires Covered Entities to take certain steps to notify individuals and the Secretary of HHS of any breach of an individual's PHI. A breach of PHI is defined as the acquisition, access, use, or disclosure of PHI in a manner not permitted under HIPAA which compromises the security or privacy of the PHI. There are certain exceptions for situations such as unintentional acquisition by a workforce member, inadvertent disclosures to those otherwise authorized to access the information, etc., but these exceptions should be reviewed carefully in each instance to confirm applicability.

The notice required to be provided by the Covered Entity must be provided to individuals without unreasonable delay, and no later than 60 days after discovery. The notice must meet certain minimum requirements including a description of what happened (containing the date of the breach and the date of the discovery of the breach), a description of the PHI breached, steps individuals should take to protect themselves, etc. If the breach involves more than 500 individuals in a state or jurisdiction, notice must be made to prominent media outlets in the state or jurisdiction.

Business Associates must notify the Covered Entities when they discover a breach of PHI. This notice must be made without unreasonable delay, and

The Phoenix Law Group of Feldman Brown Wala Hall and Agena, PLC is one of the few law firms in the country with an entire practice group devoted exclusively to pharmacy benefits and operations. What sets our practice group apart? For starters, it is made up entirely of attorneys that have in-house counsel experience, giving us significant expertise in an extremely complex industry.

Primarily representing pharmacy benefit managers (PBMs) and retail pharmacy chains, we work with our clients daily as an extension of their in-house legal departments. Because we get to know our clients thoroughly, we understand how to achieve their business goals, and are able to provide each with pragmatic advice and workable solutions. From contract development and negotiation, to structuring operations to meet regulatory requirements, our experience allows us to handle a client's needs seamlessly without wasted time getting up to speed.

within at least 60 days. The Business Associate must provide the identification of each individual affected and any other available information that the Covered Entity is required to include in its notifications.

For the second year in a row, the Phoenix Business Journal has named The Phoenix Law Group Of Feldman Brown Wala Hall & Agena to the list of largest specialty firms in Phoenix for its Pharmacy Benefits and Operations practice.

For additional information that impacts the pharmaceutical benefit industry, visit PLGTRACK.COM or contact Samantha Brown sbrown@phoenixlawgroup.com, Laurel Wala lwala@phoenixlawgroup.com, or Cami Agena cagena@phoenixlawgroup.com at The Phoenix Law Group www.phoenixlawgroup.com.

The information contained herein is informational only, does not constitute legal advice, and may not be relied on as such. No attorney-client relationship is formed by the provision of this information.

[Forward email](#)

| [HOME](#) | [CONTACT](#) | [ATTORNEYS](#) |

✉ [SafeUnsubscribe®](#)

This email was sent to sbrown@phoenixlawgroup.com by sbrown@phoenixlawgroup.com.
[Update Profile/Email Address](#) | Instant removal with [SafeUnsubscribe™](#) | [Privacy Policy](#).

Email Marketing by



The Phoenix Law Group of | Feldman Brown Wala Hall & Agena, PLC | 8765 E Bell Road, Suite 110 | Scottsdale | AZ | 85260